



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

would have used such a term, requiring it to be executed, with all the solemnities of other deeds of real estate, for the transfer of mere personal chattels.

It may be supposed by some, perhaps, that this construction gives less adequate protection to the wife's property, which seems of late to be regarded as a very cherished object by all. But we can only say, it affords all the protection which the law gives at present, and to convey the protection the length claimed, would certainly be attended with serious inconvenience, and often produce injustice, and for one, I am ready to say, I have no expectation, the legislature ever supposed they were making any such provision, or that they ever will, so far as the conveyance or transfer of the yearly products of the wife's land is concerned.

Judgment reversed and case remanded.

---

*In the Supreme Court of Pennsylvania.*

PATTERSON vs. ROBINSON.<sup>1</sup>

A married woman may give a judgment for the purchase money of real estate, but execution will be confined to the real estate purchased.

This was an action of debt on a bond given by Arabella Patterson, the plaintiff in error and the defendant below, to William Robinson, Jr., for the purchase money of two lots of ground in Allegheny City. In 1848, the plaintiff below, conveyed the lots to the defendant, Arabella Patterson. Eighty dollars were paid in hand, and for the balance, the purchaser, who was a married woman, gave her own judgment bond. The deed recited that the conveyance was subject to the payment of the bond. Judgment was entered on the bond by virtue of the warrant of attorney, which was opened, and defendant permitted to plead coverture. The fact of coverture was admitted, and the facts above set forth were submitted in a case

<sup>1</sup> We are indebted to the Pittsburg Leg. Int. for this case.

stated. The Court below, WILLIAMS, P. J., gave judgment for the plaintiff in an able opinion.

The case was argued by

*T. J. Fox Alden, Esq.*, for plaintiff in error, and by

*Robt. McKnight, Esq.*, for defendant in error.

The opinion of the Court was delivered by

LEWIS, J.—The power which a married woman exercises over her real estate, is not a mere naked power; nor is it altogether analogous to a power coupled with an interest. It is the right of disposition incidental to ownership. The disability of coverture is thrown around her for the protection of the rights of herself and her husband. It is a shield for defence—not a weapon for mischief. When that disability is removed, or, what is the same thing, whenever the law permits her to act in relation to her estate, she acts as proprietor, and may exercise the rights of one. She has a right, by law, to sell her estate, with the consent of her husband, provided there is no coercion. To secure the one, and at the same time to guard against the other, she is required to *unite* with him in the execution of the conveyance, and to *separate* from him in the acknowledgment of it. 6 Harris, 506; 7 Harris, 361. If she exercises, in this form, her right to sell, she may dispose of her estate upon such terms and conditions as she deems most advisable. She may, therefore, mortgage it for her husband's debts; for a mortgage is but a sale on condition. 3 John. Ch. Rep. 144; 7 Harris, 402. And, for the same reason, she may prescribe such terms, and waive such privileges, as she thinks proper to prescribe or waive, so long as her acts are essentially a part of the contract of sale, and bind nothing but the property sold. This has just been decided in the case of *Black and wife vs. Galway*. By the common law, she may be grantee in a deed, without the consent of her husband. He may, it is true, divest the estate by his dissent. But if he neither agree nor disagree, the purchase is good. *Baxter vs. Smith*, 6 Bin. 427; 4 Cruise's Dig. 25. She may even be the grantee *upon condition*, and she will be bound to perform the condition,

“because it does not charge her person, but the land.” 1 Roll. Ab. 421; 2 Cruise’s Dig. 35.

In the case before us, the husband has not disagreed to the conveyance, and the estate is, therefore, vested in the wife. Under the operation of the act of 1848, it is to be “owned, used and enjoyed as her separate property.” But the same act that gives her these advantages, attaches conditions in *law* to the grant. The estate is to be liable for “debts contracted by herself, or in her name, by any person authorized so to do.” It is also to be liable “for debts contracted for the support and maintenance” of her “family, if no property of the husband can be found.” She cannot take the benefits without performing the conditions. Even under the law, as it stood before the act of 1848, she could not retain the estate conveyed, without paying the judgment given for the purchase money. *Heacock et al. vs. Fly*, 2 Harris, 540. But in this case, the judgment bond for the purchase money is expressly charged upon the land by the terms of the conveyance. The payment of the money is the condition subject to which she accepted the property, and upon no just principle can she hold it without performing the condition.

Under the act of 1848, her power to purchase gives her a right to contract for the payment of the consideration money, so far as to charge the property with such incumbrances as may be agreed upon to secure its payment. A judgment given for this purpose is, therefore, not void on the ground of coverture, and the application to deprive the creditor of the security for his money, was properly denied. If a Court permitted her to retain the property, and at the same time refuse to pay the consideration money, it would no longer deserve its designation of “a place where justice is judicially administered.” It is not proposed to charge the woman, personally, with the judgment; nor are we prepared to say that her other property is chargeable with the debt. But clearly, the property purchased is bound by a judgment given for the consideration money.

It is considered and adjudged, that the judgment of the District Court be affirmed, to be levied of the two lots, numbered 85 and 86, on Buena Vista plan, Second Ward, Allegheny, being the same

which were conveyed by the said William Robinson to the said Arabella Patterson, by deed of the 1st August, 1848, recorded in vol. 81, page 599, in consideration in part of the judgment aforesaid.

---

*In the District Court for the City of Philadelphia.*

FRITZ vs. FISHER.

1. A judgment of one court will not be enforced by another, unless it is certain in itself, or is capable of being made so by intendment or presumption.
2. It *seems*, that a defence to the judgment of another State on the ground of want of notice should be pleaded; and that when it is not, the judgment will not be held invalid, merely because the record fails to show that notice was given.

The opinion of the Court was delivered by

HARE, J.—This is an action of debt against Fisher & Smith, founded on a judgment rendered by a justice of the peace in New Jersey.<sup>1</sup> The judgment as produced and proved in this

<sup>1</sup> (COPY OF RECORD.)

State of New Jersey, Camden county, ss.

In the Court for the trial of small causes, before Joseph B. Strafford, Esq., Justice.

Andrew Fritz, plaintiff, <i>vs.</i> Henry Fisher and George A. Link, defendant.	}	In trespass on the case, damage \$100.
--	---	--

May 25, 1853. Issued a summons in the above case, returnable before me on Wednesday, the 1st day of June next, at 2 o'clock, P. M. Constable returned the same, as follows: "Served the within May 25, 1853, on the said Henry Fisher, by reading it to him, a copy not required. C. H. Gordon, Constable."

June 1, 1853. Counsel for both parties sent me a note, requesting a postponement for two weeks, with an arrangement that plaintiff should then have the privilege of filing his state of demand; whereupon I adjourned the trial until the 15th inst. at 4 o'clock in the afternoon.

June 15, 1853. Parties appeared. Plaintiff filed his state of demand. Trial